

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
SHELBY DIVISION**

IN RE:)	
)	
CLEMMER'S CONSTRUCTION, LLC)	CASE NO. 23-40136
)	CHAPTER 11
Debtor.)	
_____)	

**AMENDED INTERIM APPLICATION OF R. KEITH JOHNSON
FOR ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES
FOR THE PERIOD FROM 30 AUGUST 2023 THROUGH 13 OCTOBER 2023**

Name of Applicant: R. Keith Johnson

Authorized to Provide Professional Services to: Clemmer's Construction, LLC

Date of Retention: 19 July 2023

Compensation and reimbursement is sought for the period from 30 August 2023 through 13 October 2023. R. Keith Johnson has not yet received any payments for services rendered or expenses incurred during this period.

Amount of compensation sought as actual, reasonable, and necessary: \$8,675.00

Amount of expense reimbursement sought as actual, reasonable, and necessary: \$0.00

This is a/an: _____ monthly XXXX interim _____ final application

If this is not the first application filed, disclose the following for each prior application:

Date Filed	Period Covered	Requested		Approved	
		Fees	Expenses	Fees	Expenses
8/30/2023	8/4/2023 – 8/29/2023	\$11,100.00	\$44.60	\$11,100.00	\$44.60

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ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES FOR
THE PERIOD FROM 30 AUGUST 2023 THROUGH 13 OCTOBER 2023**

Pursuant to sections 330 and 331 under title 12 of the United States Code, 11 U.S.C. §§ 101 et seq. (the "Bankruptcy Code") and Rule 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), R. Keith Johnson ("Johnson") hereby requests that this Court award him reasonable compensation for professional services rendered as counsel to the above-captioned debtor (the "Debtor") in the amount of \$8,675.00, together with reimbursement for actual and necessary expenses incurred in the amount of \$0.00 for the period commencing 30 August 2023 through 13 October 2023 (the "Fee Period"). In support of this application (the "Application"), Johnson respectfully represents and states as follows:

BACKGROUND

1. Johnson was retained to represent the Debtor as counsel to the Debtor in connection with this bankruptcy case. Johnson agreed to be compensated on an hourly basis and to be reimbursed for actual and necessary out-of-pocket expenses.

COMPENSATION TO BE PAID AND ITS SOURCE

2. All services for which Johnson requests compensation were performed for or on behalf of the Debtor.

3. Attached hereto as Exhibit A is a detailed statement of fees incurred during the Fee Period, showing the amount of \$8,675.00 due for compensation for the various services rendered.

DISBURSEMENTS

4. Johnson has incurred out-of-pocket disbursements during the Fee Period in the amount of \$0.00 and is listed on Exhibit A hereto.

VALUATION OF SERVICES

5. The nature of the work performed, and the cost of these services performed by Johnson is fully set forth in attached Exhibit A. The rates charged by Johnson professionals are the normal hourly rates charged by Johnson for work of this character. In the Debtor's opinion, the reasonable value of the services rendered by Johnson to the Debtor during the Fee Period far exceeds the fees charged by Johnson.

6. In accordance with the factors enumerated in 11 U.S.C. § 330, the amount requested is fair and reasonable given (a) the complexity of the case, (b) the time expended, (c) the nature and extent of the services rendered, (d) the value of such services, and (e) the costs of comparable services other than in a case under this title.

NOTICE

7. Notice of this Application has been given to (a) the Bankruptcy Administrator for the Western District of North Carolina, (b) those parties requesting notice pursuant to Bankruptcy Rule 2002, (c) the Subchapter V Trustee, and (d) the Debtor.

WHEREFORE, Johnson requests that allowance be made to him in the sum of \$8,675.00 as compensation for necessary professional services rendered to the Debtor for the Fee Period and the sum of \$0.00 for reimbursement of actual, necessary costs and expenses incurred during that period, and further requests such other and further relief as this Court may deem just and proper. The total amount requested to be paid is \$8,675.00.

Dated: October 13, 2023

LAW OFFICES OF R. KEITH JOHNSON, P.A.

/s/ R. Keith Johnson
R. KEITH JOHNSON
1275 S. NC Bus. Hwy. 16
Stanley, NC 28164
(704) 827-4200
NCSB #8840

Counsel for the Debtor

**UNITED STATES BANKRUPTCY COURT
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AMENDED NOTICE OF OPPORTUNITY FOR HEARING

PLEASE TAKE NOTICE that R. Keith Johnson, counsel for Clemmer's Construction, LLC (the "Debtor"), has filed an **Interim Application for Allowance of Compensation and Reimbursement of Expenses for the Period from 30 August 2023 through 13 October 2023**. R. Keith Johnson is seeking allowance of fees in the total amount of \$8,675.00 and expenses in the total amount of \$0.00 for the period from 30 August 2023 through 13 October 2023.

PLEASE TAKE FURTHER NOTICE THAT YOUR RIGHTS MAY BE AFFECTED BY THIS APPLICATION. YOU SHOULD READ THE APPLICATION CAREFULLY AND DISCUSS IT WITH YOUR ATTORNEY. IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT WITH ONE.

PLEASE TAKE FURTHER NOTICE that in order for a hearing to be held on the Application, written responses to the Application, if any, must be filed on or before fourteen (14) days of the date of this notice (the "Response Deadline") in order to be considered. If you do not want the Court to grant the relief requested in the Application, or if you oppose the Application in any way, you **MUST**:

- (1) File a formal, written response to the Application(s) with the Bankruptcy Court at:

Clerk, United States Bankruptcy Court
Charles R. Jonas Federal Building
401 West Trade Street, Room 111
Charlotte, NC 28202

- (2) Serve a copy of your response on all parties in interest, including:

U. S. Bankruptcy Administrator
402 West Trade Street
Charlotte, NC 28202

R. Keith Johnson
Law Offices of R. Keith Johnson, P.A.
1275 S. NC 16 Bus. Hwy.
Stanley, NC 28164

PLEASE TAKE FURTHER NOTICE that **IF RESPONSES ARE TIMELY FILED, a hearing on the Application will be held on November 17, 2023 at 10:30 a.m. (ET)** before the Honorable J. Craig Whitley at the Cleveland County Courthouse, 100 Justice Place, Shelby, North Carolina 28150.

PLEASE TAKE FURTHER NOTICE that, if you or your attorney do not file a written response to the Application on or before the Response Deadline, the Court may grant the relief requested in the Application without a hearing. No further notice of the Application will be given.

Dated: October 13, 2023

LAW OFFICES OF R. KEITH JOHNSON, P.A.

/s/ R. Keith Johnson
R. KEITH JOHNSON
1275 S. NC Bus. Hwy. 16
Stanley, NC 28164
(704) 827-4200
NCSB #8840

Counsel for the Debtor

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CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on the below date, the undersigned served a copy of the Interim Application of R. Keith Johnson for Allowance of Compensation and Reimbursement of Expenses and Notice of Opportunity for Hearing for same either electronically or by depositing, enclosed in a postpaid wrapper, to the following parties in interest, at their last known addresses as shown below, in a post office or official depository under the exclusive care and custody of the United States Postal Service:

Niall T. McLachlan, Esq.
Commercial Credit Group Inc.
525 N. Tryon Street, Ste. 1000
Charlotte, NC 28202

J. Michael Fields, Esq.
Ward and Smith, P.A.
P. O. Box 8088
Greenville, NC 27835-8088

James David Nave (ECF)
Chapter 11 Trustee

Shelley Abel (ECF)
Bankruptcy Administrator

Dated: October 13, 2023

LAW OFFICES OF R. KEITH JOHNSON, P.A.
/s/ R. Keith Johnson
R. KEITH JOHNSON,
Counsel for the Debtor
1275 S. NC 16 Bus. Hwy.
Stanley, NC 28164
(704) 827-4200
NCSB 8840

CLEMMER'S CONSTRUCTION, LLC
Michael Clemmer
1402 Mirror Lake Rd.
Lincolnton, NC 28092

Statement Date: October 13, 2023
Statement No. 914
Account No. 535.00
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Interim Statement

Fees

			Rate	Hours	
08/30/2023	RKJ	Telephone conference with Donnie Murrell regarding payment to Concrete Supply (.2);	500.00	0.20	100.00
	RKJ	Telephone conference with Michael regarding same (.15);	500.00	0.15	75.00
08/31/2023	RKJ	Review emails regarding Tristar contract (.2);	500.00	0.20	100.00
	RKJ	Telephone conference with Donnie Murrell regarding termination of contract (.2);	500.00	0.20	100.00
	RKJ	Telephone conference with Michael regarding same (.25);	500.00	0.25	125.00
	RKJ	Prepare letter to Murrell regarding termination as violation of automatic stay (.3);	500.00	0.30	150.00
09/01/2023	RKJ	Review Britton Lewis email regarding letter as to violation of stay (.25);	500.00	0.25	125.00
	RKJ	Telephone conference with Lewis regarding possible resolution (.3);	500.00	0.30	150.00
	RKJ	Review long email from Lewis w/ proposal (.25);	500.00	0.25	125.00
	RKJ	Respond to email (.2);	500.00	0.20	100.00
09/05/2023	RKJ	Telephone conference with Michael regarding Trister matter, 341 meeting, etc. (.2);	500.00	0.20	100.00
	RKJ	Telephone conference with Lewis regarding counter-response (.2);	500.00	0.20	100.00
	RKJ	Respond to Lewis email regarding further counter (.2);	500.00	0.20	100.00
	RKJ	Review proposed termination agreement regarding Trister (.35);	500.00	0.35	175.00
	RKJ	Communicate with Lewis email regarding lien waiver (.15);	500.00	0.15	75.00
09/06/2023	RKJ	Telephone conference with Michael regarding settlement with Trister, etc. (.2);	500.00	0.20	100.00
	RKJ	Telephone conference with Michael regarding payment from Hudson, Payment to CCG (.2);	500.00	0.20	100.00
	RKJ	Telephone conference with Niall regarding details of payment to CCG (.2);	500.00	0.20	100.00
	RKJ	Telephone conference with Michael regarding escrowing CCG payment, Hudson payment, etc. (.25);	500.00	0.25	125.00
	RKJ	Attended zoom 341 meeting (.8);	500.00	0.80	400.00
	RKJ	Telephone conference with Michael regarding Concrete Supply			

CLEMMER'S CONSTRUCTION, LLC

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914

Account No:
Statement No:

			Rate	Hours	
		liens (.2);	500.00	0.20	100.00
09/11/2023	RKJ	Telephone conference with Michael regarding payment to CCG, and attorney fees (.2);	500.00	0.20	100.00
	RKJ	Telephone conference with BA regarding CCG stipulation (.2);	500.00	0.20	100.00
	RKJ	Telephone conference with GiGi (Rapid Finance) regarding loan to Clemmers Landscape (.2);	500.00	0.20	100.00
	RKJ	Telephone conference with McLachlan regarding CCG stipulation (.2);	500.00	0.20	100.00
09/12/2023	RKJ	Prepare 1188 (c) status report (.25);	500.00	0.25	125.00
	RKJ	Telephone conference with Michael Fields (attorney for Crete Solutions) regarding background info, status of operation, etc. (.3);	500.00	0.30	150.00
09/14/2023	RKJ	Review Westlake Financial proof of claim (.25);	500.00	0.25	125.00
	RKJ	Prepare letter to Mike (Apple Advance) regarding collection demand (.25);	500.00	0.25	125.00
	RKJ	Telephone conference with Michael regarding same, and regarding other issues (.3);	500.00	0.30	150.00
	RKJ	Review Crete Solutions proof of claim (.25);	500.00	0.25	125.00
	RKJ	Review Kenny email regarding insurance coverage for equipment & vehicles (.2);	500.00	0.20	100.00
	RKJ	Telephone conference with Michael regarding title info (.1);	500.00	0.10	50.00
	RKJ	Telephone conference with Granite Insurance Agency regarding coverage (.2);	500.00	0.20	100.00
	RKJ	Draft Amendments to Schedules A/B and SoFA (.4);	500.00	0.40	200.00
09/15/2023	RKJ	Telephone conference with Bowers regarding avoidance claims, tax returns, etc. (.25);	500.00	0.25	125.00
	RKJ	Office conference with Michael Clemmer regarding meeting with Bowers, status of contracts, etc. (1.1);	500.00	1.10	550.00
09/18/2023	RKJ	Review release of lien regarding Trister contract (.25);	500.00	0.25	125.00
	RKJ	Review Concrete Supply notice to enforce liens (.45);	500.00	0.45	225.00
09/20/2023	RKJ	Telephone conference with Michael regarding intent to sell D5 dozer, South State putting money in negative account, etc. (.25);	500.00	0.25	125.00
	RKJ	Telephone conference with Niall (CCG) regarding D5 payoff (.1);	500.00	0.10	50.00
	RKJ	Draft memo to Niall regarding same (.2);	500.00	0.20	100.00
09/26/2023	RKJ	Review MCLachlan email regarding release price for D5 dozer (.15);	500.00	0.15	75.00
	RKJ	Telephone conference with Michael regarding same (.1);	500.00	0.10	50.00
09/28/2023	RKJ	Telephone conference with Michael opening new bank acct., and regarding status hearing (.2);	500.00	0.20	100.00
	RKJ	Telephone conference with Bowers regarding bank statement analysis (.25);	500.00	0.25	125.00
	RKJ	Review 90 day disbursements from Bowers (.3);	500.00	0.30	150.00

CLEMMER'S CONSTRUCTION, LLC

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			Rate	Hours	
09/29/2023	RKJ	Attended Shelby hearing regarding status conference and regarding motions regarding payroll and bank accounts (1.8);	500.00	1.80	900.00
	RKJ	Revise order regarding use of bank accounts (.25);	500.00	0.25	125.00
	RKJ	Office conference with Michael regarding financial info from Bowers, status of CCG payments, preliminary plan discussions, etc. (.85);	500.00	0.85	425.00
10/02/2023	RKJ	Review McLachlan email regarding CCG orders and payment (.2);	500.00	0.20	100.00
	RKJ	Telephone conference with Michael regarding payment to CCG (.1);	500.00	0.10	50.00
10/03/2023	RKJ	Prepare amendments to SoFA (.45);	500.00	0.45	225.00
	RKJ	Telephone conference with Bowers regarding preparation of August monthly report (.2);	500.00	0.20	100.00
	RKJ	Office conference with Michael regarding sale of dozer, monthly report, need to purchase dump truck, etc. (.35);	500.00	0.35	175.00
10/06/2023	RKJ	Telephone conference with Michael regarding July check to Rudy Estrada, payment to CCG, sale of D5 dozer, etc. (.3);	500.00	0.30	150.00
10/10/2023	RKJ	Telephone conference with Michael regarding continued 341 meeting, payment to CCG, etc. (.25);	500.00	0.25	125.00
	RKJ	Continued 341 meeting (zoom), and Telephone conference with Michael regarding info for amendments to SoFA (.45);	500.00	0.45	225.00
		For Current Services Rendered		17.35	8,675.00

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
R. Keith Johnson	17.35	\$500.00	\$8,675.00

Total Current Work 8,675.00

Balance Due \$8,675.00

Billing History

<u>Fees</u>	<u>Hours</u>	<u>Expenses</u>	<u>Advances</u>	<u>Finance Charge</u>	<u>Payments</u>
8,675.00	17.35	0.00	0.00	0.00	0.00